

1 CARMEN POWELL, IN PRO PER  
372 BAY LEAF DR.  
2 CHULA VISTA, CALIF. 91910  
619 420-4204 OR 619 253-1806  
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5 UNITED STATE DISTRICT COURT  
6 SOUTHERN DISTRICT OF CALIFORNIA  
7

FILED  
08 MAR 28 PM 1:52  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY  
NUNC PRO TUNC  
MAR 28 2008

8 Carmen Powell, Plaintiff/Petitioner/Movant

Case No. 07 CV 1836

9 Vs.

Opposition to Motion to Dismiss

10 Defendants/Respondent

11 City of Chula Vista; Chula Vista Police  
Department, Det Ruth Hinzman; Agt. Angerson;  
12 Agt Oyos; Sgt Cervantes; and Person and Entities  
Unknown, City of San Diego and San Diego  
County Protective Services Workers, Julie Smith,  
13 Nadia Najors, Megan Petfinger; Rebecca Slade and  
Persons and Entities unknown, Children's Hospital;  
14 Diana Chase, Nurse, Debra Davies, LCSW and  
Entities unknown  
15  
16

17 Now comes Carmen Powell before the Honorable Court, and would like to first apologize for my  
18 untimely filing of my Opposition to Dismiss, at no time is my lack of filing an admission or should be  
19 construed as my consent to granting the Motion to Dismiss. My lack of filing was an oversight and I beg  
20 the courts forgiveness.

21 The Defendants Motion to Dismiss is based on the following, I. COMPLAINT SHOULD BE  
22 DISMISSED PURSUANT TO RULE 12 (B)(6) BECAUSE IT IS SUBJECT TO A CLAIM  
23 PRECLUSION DEFENSE, II. THE COMPLAINT SHOULD BE DISMISSED BECAUSE  
24 DEFANDANT SMITH IS ABSOLUTELY IMMUNE TO LIABILITY ON THE ALLEGED FEDERAL  
25 CLAIMS, III. THE COMPLAINT SHOULD BE DISMISSED FOR LACK OF JURISDICTION TO  
26 REVIEW STATE COURT ORDERS AND JUDGEMENTS CONCERNING JUVENILE  
27 DEPENDENCY AND CUSTODY MATTERS.  
28

1 Answer to I, I am in the process of filing an amended complaint to express an exact state of claim,  
2 II. THE COMPLAINT SHOULD BE DISMISSED BECAUSE DEFENDANT SMITH IS  
3 ABSOLUTELY IMMUNE TO LIABILITY ON THE ALLEGED FEDERAL CLAIMS. Your Honor,  
4 the law is clear that social workers are not immune from 1. Perjury, 2. Fabrication of evidence, 3. Failure  
5 to disclose known exculpatory evidence, 4. Obtaining testimony by duress. In my amended complaint I  
6 will lay out in detail how not only Julie Smith, and not limited to other named social workers and those  
7 unknown in this case did the same.

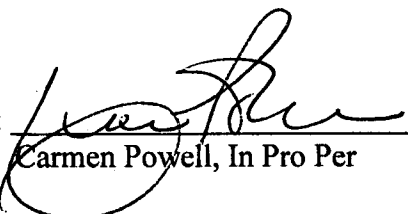
8 Answer to III, THE COMPLAINT SHOULD BE DISMISSED FOR LACK OF JURISDICTION  
9 TO REVIEW STATE COURT ORDERS AND JUDGEMENTS CONCERNING JUVENILE  
10 DEPENDENCY AND CUSTODY MATTERS. It is clear that defendants feels that this court can review  
11 whatever the defendant deems relevant, and Your Honor, the defendant wants to present to you a snap  
12 shot of Juvenile Court records, however they want to withhold the video tapes interview of my dependant  
13 child, whom they seized without a warrant, immanent harm or exigent circumstance and where  
14 statements submitted under penalty of perjury by Julie Smith and other social workers was an intentional  
15 fabrication, and what Julie Smith directly told the court under penalty of perjury, was a total fabrication  
16 with malice. I request that if the court is going to entertain this snap shot of court records, please in the  
17 matter of equal access under the law, that this court request of the defendant that all court documents,  
18 transcripts, testimony and video tapes be turned over to this court for review in order to get to the entire  
19 truth of the matter. I beg that this court does not allow the wool to be pulled over this courts eyes in  
20 order to deny me equal access under the law. In juvenile court discovery is turned over or withheld and  
21 as of this late date, I have still not received all discovery in this juvenile matter and you a limited as to  
22 what you can receive, exculpatory information is withheld, the defendants in this matter are allowed to sit  
23 in on each others testimony during court proceedings and much is withheld or hidden

24 I am informing this court that I will be filing and amended petition, not only based on new,  
25 exculpatory information, but factual information not only is this the correct court to hear this matter, that  
26 I also have a legal and factual basis for this matter as according to Federal and State statues.  
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28

1 Respectfully Submitted

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3 Carmen Powell, In Pro Per

4 Dated: March 24, 2008

5  
6  
7 By:   
8 Carmen Powell, In Pro Per

9 Attorneys for Defendants

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28 Attorney for Rady Children's Hospital and  
Diana Chase

**CERTIFICATE OF SERVICE**

**A COPY OF THE FOREGOING HAS BEEN SENT VIA REGULAR, U.S. MAIL, POSTAGE PREPAID TO:**

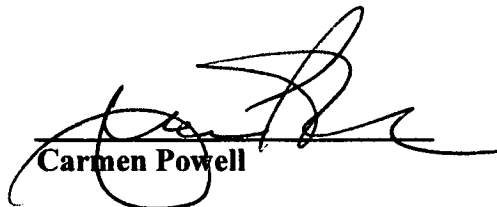
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Attorney for Morteza Mirkarimi, M.D.**

**I declare that by placing a copy in a separate envelope, with postage fully prepaid, for each addressee named above and depositing each in the U.S. Mail at San Diego, California, on this 25<sup>th</sup> day of March, 2008**

**Date: March 25, 2008**

  
**Carmen Powell**